

ARGUMENTS/REMARKS

Applicants would like to thank the Examiner for the careful consideration given the present application, and for the personal interview conducted on December 15, 2004. The application has been carefully reviewed in light of the Office action and interview, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

Claims 1-25 remain in this application. Claim 26 has been added.

The applicant inadvertently stated, in superseded amendment A, that the Examiner objected to Figures 2-4 as being prior art but not being so labeled. The Examiner made no such objection and no substitute drawings have been, or are being, provided. The cited figures are not prior art. The error was introduced by a staff person of applicant's representative.

The Examiner objected to claims 23 and 25 as being allowable if made independent.

Claims 1-15 and 18-21 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. For the following reasons, the rejection is respectfully traversed.

First, independent claims 1, 14, and 16, along with various dependent claims, have been amended to clarify the claim language. In particular, claim 1 was amended to recite an inputting step, as suggested by the Examiner at the personal interview.

Finally, applicant disputes that the alternative language originally used in claim 16 is in any way generally improper (see, for example, MPEP §2173.05(h): "Alternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims", for example). However, applicant has amended the claim to remove the alternative language.

Accordingly, the rejections for indefiniteness should be withdrawn as being either moot or improper.

Claims 16, 17, 22, and 24 were rejected under 35 U.S.C. §102(b) as being anticipated by Okabe *et al.* (“Headphone Response on Real Ears and a Head and Torso Simulator”). For the following reasons, the rejection is respectfully traversed.

Claim 16, as amended, recites that “an acoustic resistor is arranged between the speaker and an exit opening in a connecting channel to the microphone”. As discussed at the personal interview, Okabe does not suggest such a placement of an acoustic resistor. The Examiner pointed to Figs. 3 and 4 for showing a frequency response, but there is no suggestion of the use of any acoustic resistor in the Okabe circuit of Fig. 2. In an introduction section, Okabe discusses prior art of an ear simulator terminating in a simple resistance element, as cited by the Examiner.

- However, there is no suggestion to place a resistor “between the speaker and an exit opening in a connecting channel to the microphone” as explicitly claimed. In fact, the language “terminating”, which implies an “end” not a “between”, clearly teaches away from the claim language.

Accordingly, claim 16, and thus claims 17, 22, and 24, are all patentable over the reference, as also discussed at the personal interview. The Examiner agreed to reconsider the rejection in light of the interview discussion.

New claim 26 recites limitations similar to those discussed above. The remaining claims have been addressed to overcome the rejections and/or objections by the Examiner, and thus are also in a condition for allowance as suggested by the Examiner.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

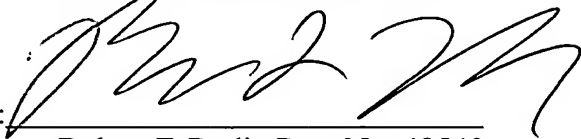
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Reply to Office action of September 15, 2004

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 35624.

Respectfully submitted,

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